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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,626	10/26/2005	Colin Brown	102790-133 (30077)	9217
27389 7590 08/11/2008 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER				
MCKANE, ELIZABETH L.				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
08/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/554,626

Applicant(s)

BROWN ET AL.

Examiner

ELIZABETH L. MCKANE

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-10, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-10, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 13, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4, 13, and 14, the recitation of an electrically conductive strip or a magnet is confusing with respect to claim 1 which recites that the closure means is a metallic coil.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 7-10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kvietok et al. (US 2003/0175148).

With respect to claims 1, 2, 4, 7, 8, 10, 13, and 14, Kvietok et al. teaches a dispensing device **20** which includes an electrically driven actuator device for dispensing a volatile material. The invention of Kvietok et al. further includes a refill **22**

which includes a reservoir containing a volatile liquid and which further includes a closure means **74** or **102** on the refill. A switch means associated with the dispensing device is adapted to engage or interact with the closure means when the dispensing device is appropriately assembled. See paragraph [0079]. The actuator may be a heater or a fan (paragraph [0081]) and the switch means may incorporate a conductive strip or an RF transmitter. See paragraphs [0079] and [0083]. Although not specifically disclosed by Kvietok et al., it would have been obvious to one of ordinary skill in the art that the RF transmission system of Kvietok et al. would have included an RF transmitter and receiver circuit and a metallic coil, as this is precisely what one would find in an inductively-coupled RF tag. This type of RF tag is well-known in the art and would have been an obvious choice in the invention of Kvietok et al..

As to claims 3 and 9, Kvietok et al. teaches the use of a plurality of metal contact rings **82,84** and a plurality of contacts **88,90**. Regardless, it is deemed obvious to do provide multiple closures and switches since multiplying parts for a multiplied effect is obvious where the results are not unexpected. As multiplying the number of closures and switch means would have resulted in a system having a robust means of assuring correct assemblage of the apparatus, a known and expected result, it would have been obvious in the invention of Kvietok et al..

Response to Arguments

5. Applicant's arguments filed 26 March 2008 have been fully considered but they are not persuasive.

6. Specifically, Applicant argues that Kvietok et al. fails to teach the closure and switch means claimed. The Examiner respectfully disagrees. In fact, this is precisely what Kvietok et al. teaches. For example, Kvietok et al. teaches in paragraph [0083] that the refill unit includes an RF tag **102** which communicates with the dispenser in order to activate dispensing of the product. Thus the dispenser itself must have an RF transmitter -- this is indeed how an RF tag works. As is well-known in the art, the inductive RF tag includes an antenna -- a metallic coil -- for both signal return and inductive power.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH L. MCKANE whose telephone number is (571)272-1275. The examiner can normally be reached on Mon-Fri; 5:30 a.m. - 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elizabeth L McKane/
Primary Examiner, Art Unit 1797

elm
9 August 2008